

(2) The area north of 61° north latitude, south of 61°21' north latitude, west of 163°40' longitude and east of the Bering Sea shoreline including Hazen Bay;

(3) Nunivak Island and waters of the Bering Sea within one mile of its shorelines;

(4) The area west of the eastern most tip of Unimak Island to the terminus of the Aleutian Islands, except the area between Akutan Pass and Samalga Island;

(5) Simeonof Island and all waters of the Pacific Ocean within one-mile of Simeonof Island;

(6) the Semidi Islands and all waters of the Pacific Ocean within one mile of each of the Semidi Islands;

(7) Kodiak National Wildlife Refuge;

(8) Waters of the Pacific Ocean enclosed by the boundaries of Womans Bay, Gibson Cove, and an area defined by a line one-half mile on either side of the mouth of Karluk River, and extending seaward 3,000 feet;

(9) All waters of the Pacific Ocean within 1,500 feet seaward of the shoreline of Afognak Island;

(10) Kenai National Wildlife Refuge;

(11) Glacier Bay National Preserve.

(c) The public lands described in § 100.3(b) (1)-(11) remain subject to change through rulemaking pending a Department of the Interior review of title and jurisdictional issues regarding certain submerged lands beneath navigable waters in Alaska.

#### § 100.4 Definitions.

The following definitions apply to all regulations contained in this part.

*Agency* means a subunit of a cabinet level Department of the Federal government having land management authority over the public lands including, but not limited to, the U.S. Fish & Wildlife Service, Bureau of Indian Affairs, Bureau of Land Management, National Park Service, and USDA Forest Service.

*ANILCA* means the Alaska National Interest Lands Conservation Act, Public Law 96-487, 94 Stat. 2371 (December 2, 1980) (codified, as amended, in scattered sections of 16 U.S.C. and 43 U.S.C.)

*Barter* means the exchange of fish or wildlife or their parts taken for sub-

sistence uses; for other fish, wildlife or their parts; or, for other food or for nonedible items other than money, if the exchange is of a limited and non-commercial nature.

*Board* means the Federal Subsistence Board as described in § 100.10 of this part.

*Commissions* means the Subsistence Resource Commissions established pursuant to section 808 of ANILCA.

*Conservation of healthy populations of fish and wildlife* means the maintenance of fish and wildlife resources and their habitats in a condition that assures stable and continuing natural populations and species mix of plants and animals in relation to their ecosystem, including the recognition that local rural residents engaged in subsistence uses may be a natural part of that ecosystem; minimizes the likelihood of irreversible or long-term adverse effects upon such populations and species; ensures the maximum practicable diversity of options for the future; and recognizes that the policies and legal authorities of the managing agencies will determine the nature and degree of management programs affecting ecological relationships, population dynamics, and the manipulation of the components of the ecosystem.

*Customary and traditional use* means a long-established, consistent pattern of use, incorporating beliefs and customs which have been transmitted from generation to generation. This use plays an important role in the economy of the community.

*Customary trade* means cash sale of fish and wildlife resources regulated herein, not otherwise prohibited by State or Federal law or regulation, to support personal and family needs; and does not include trade which constitutes a significant commercial enterprise.

*FACA* means the Federal Advisory Committee Act, Public Law 92-463, 86 Stat. 770 (October 6, 1972) (codified as amended, at 5 U.S.C. appendix II 1-15).

*Federal Advisory Committees or Federal Advisory Committee* means the Federal Local Advisory Committees as described in § 100.12.

*Family* means all persons related by blood, marriage or adoption, or any

person living within the household on a permanent basis.

*Federal lands* means lands and waters and interests therein the title to which is in the United States.

*Fish and wildlife* means any member of the animal kingdom, including without limitation any mammal, fish, bird (including any migratory, nonmigratory or endangered bird for which protection is also afforded by treaty or other international agreement), amphibian, reptile, mollusk, crustacean, arthropod, or other invertebrate, and includes any part, product, egg, or offspring thereof, or the carcass or part thereof.

*Game Management Unit or GMU* means one of the 26 geographical areas listed under game management units in the codified hunting and trapping regulations and the Game Unit Maps of Alaska.

*Person* means an individual and does not include a corporation, company, partnership, firm, association, organization, business, trust or society.

*Public lands or public land* means lands situated in Alaska which are Federal lands, except—

(1) land selections of the State of Alaska which have been tentatively approved or validly selected under the Alaska Statehood Act and lands which have been confirmed to, validly selected by, or granted to the Territory of Alaska or the State under any other provision of Federal law;

(2) land selections of a Native Corporation made under the Alaska Native Claims Settlement Act which have not been conveyed to a Native Corporation, unless any such selection is determined to be invalid or is relinquished; and

(3) lands referred to in section 19(b) of the Alaska Native Claims Settlement Act.

*Regional Councils or Regional Council* means the Regional Advisory Councils as described in § 100.11.

*Regulatory year* means July 1 through June 30.

*Resident* means any person who has his or her primary, permanent home within Alaska and whenever absent from this primary, permanent home, has the intention of returning to it. Factors demonstrating the location of a person's primary, permanent home

may include, but are not limited to: The address listed on an Alaska license to drive, hunt, fish, or engage in an activity regulated by a government entity; affidavit of person or persons who know the individual; voter registration; location of residences owned, rented or leased; location of stored household goods; residence of spouse, minor children or dependents; tax documents; or whether the person claims residence in another location for any purpose.

*Rural* means any community or area of Alaska determined by the Board to qualify as such under the process described in § 100.15 of this part.

*Secretary* means the Secretary of the Interior, except that in reference to matters related to any unit of the National Forest System, such term means the Secretary of Agriculture.

*State* means the State of Alaska.

*Subsistence uses* means the customary and traditional uses by rural Alaska residents of wild, renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation; for the making and selling of handicraft articles out of nonedible byproducts of fish and wildlife resources taken for personal or family consumption; for barter, or sharing for personal or family consumption; and for customary trade.

*Take or taking* as used with respect to fish or wildlife, means to pursue, hunt, shoot, trap, net, capture, collect, kill, harm, or attempt to engage in any such conduct.

*Year* means calendar year unless another year is specified.

#### **§ 100.5 Eligibility for subsistence use.**

(a) The taking of fish and wildlife on public lands for subsistence uses is restricted to Alaskans who are residents of rural areas or communities. Other individuals, including Alaskans who are residents of non-rural areas or communities listed in § 100.23, are prohibited from taking fish and wildlife on public lands for subsistence uses under these regulations.

(b) Where the Board has made a customary and traditional use determination regarding subsistence use of a specific fish stock or wildlife population, in accordance with, and as listed in,